

Attorneys for WAI'OLA O MOLOKA'I, INC.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application)	
)	
of)	
)	Docket No. 2009-0049
WAI'OLA O MOLOKA'I, INC.)	
)	
For review and approval of rate)	
increases; revised rate schedules;)	
and revised rules.)	
_____)	

**WAI'OLA O MOLOKA'I, INC.'S
FIRST SUBMISSION OF INFORMATION REQUESTS
TO THE CONSUMER ADVOCATE**

COMES NOW, WAI'OLA O MOLOKA'I, INC., by and through its attorneys,
Moriwara Lau & Fong LLP, hereby submits its First Submission of Information Requests
to the Consumer Advocate consistent with the Stipulated Regulatory Schedule
(Exhibit "A") contained in the Stipulated Prehearing Order, filed on November 6, 2009.

DATED: Honolulu, Hawaii, January 25, 2010.



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Attorneys for WAI'OLA O MOLOKA'I, INC.

DOCKET NO. 2009-0049

WAI'OLA O MOLOKA'I, INC.

**FIRST SUBMISSION OF INFORMATION REQUESTS
TO THE CONSUMER ADVOCATE**

INSTRUCTIONS

In order to expedite and facilitate WAI'OLA O MOLOKA'I, INC.'s ("WOM") review and analysis in the above matter, the following is requested:

1. For each response, Consumer Advocate ("CA") should identify the person who is responsible for preparing the response as well as the witness who will be responsible for sponsoring the response should there be an evidentiary hearing;
2. Unless otherwise specifically requested, for applicable schedules or workpapers, CA should provide hard copies of each schedule or workpaper together with one copy of each such schedule or workpaper on electronic media in a mutually agreeable format (e.g., Excel and Quattro Pro, to name two examples); and
3. When an information request makes reference to specific documentation used by CA to support its response, it is not intended that the response be limited to just the specific document referenced in the request. The response should include any non-privileged memoranda, internal or external studies, assumptions, CA instructions, or any other relevant authoritative source which CA used.
4. Should CA claim that any information is not discoverable for any reason:
 - a. State all claimed privileges and objections to disclosure;
 - b. State all facts and reasons supporting each claimed privilege and objection;

- c. State under what conditions CA is willing to permit disclosure to WOM (e.g., protective agreement, review at business offices, etc.); and
- d. If CA claims that a written document or electronic file is not discoverable, besides complying with subparagraphs 4(a-c), identify each document or electronic file, or portions thereof, that CA claims are privileged or will not be disclosed, including the title or subject matter, the date, the author(s) and the addressee(s).

DOCKET NO. 2009-0049

WAI'OLA O MOLOKA'I, INC.

**FIRST SUBMISSION OF INFORMATION REQUESTS
TO THE CONSUMER ADVOCATE**

WOM-IR-CA-1 Ref: CA-T-1, p. 6, l. 8-18

- a. Please explain the determination that a rate increase, if approved, would result in the Company having revenues exceeding \$2 million.

WOM-IR-CA-2 Ref: CA-T-1, p. 9, l. 5-8

- a. Please identify all areas where the Consumer Advocate believes. "...it is likely that there are additional adjustments that could have been identified."
- b. Since the Consumer Advocate testifies that, "[T]he results will be reasonable, ...", does the Consumer Advocate agree that any possible adjustment to the remaining accounts would not be material to the overall establishment of the revenue requirement in this proceeding?
 1. If not, please identify any specific account where the Consumer Advocate believes there could be adjustments that could be material to

establishing the revenue requirement in this proceeding.

WOM-IR-CA-3 Ref: CA-T-1, p. 9, l. 15-17

- a. Does the Consumer Advocate believe it has the right to question any estimate, method, assumption or other factor in any new regulatory proceeding it is participating in before the Commission?
 1. If so, please explain the need for the statement beginning on line 15 of page 9 of CA-T-1.
 2. If not, please explain and provide documentation to support the limitations placed on the Consumer Advocate.

WOM-IR-CA-4 Ref: CA-T-1, pp. 12-13

- a. Please provide all instances, with supporting orders or other documentation, where utility plant that is used and useful in providing utility service and was not excess capacity for the then existing customer base, was determined to be excess capacity because of the loss of customers.
- b. Please provide all reasons why the utility should be penalized because economic conditions have forced several large customers to close and remove themselves as customers of the utility.

- c. Please confirm that it is the Consumer Advocate's understanding that the existing Company facilities as reflected in rate base, which consists mainly of the water treatment plant, were not constructed to serve a significant amount of future customer growth.
 - 1. If this is not the Consumer Advocate's understanding, please provide the basis of the Consumer Advocate's understanding as to the requirements for the majority of the plant included in rate base.
- d. Please confirm that it is the Consumer Advocate's understanding that the current relationship of customer demand and Company capacity was not the result of actions by WOM.
 - 1. If this is not the Consumer Advocate's understanding, please provide the basis of the Consumer Advocate's understanding as to the relationship of customer Demand and Company capacity in 2006 or 2007 and in 2009 and 2010, for the majority of the plant included in rate base.
- e. Please provide all reasons, other than it would create an increased revenue requirement to be recovered

from customers, that the Company should be penalized, simply because several large customers have closed due to economic conditions which has resulted in a decrease in customer demand and has resulted in a lower utilization of the Company's facilities.

1. Please include copies of commission orders or other documentation supporting the imposition of such penalties.

WOM-IR-CA-5

Ref: CA-T-1, p. 12, l. 17-20 (incorporating by reference CA-T-1, p. 18, l. 17-21 in Docket No. 2009-0049)

- a. Please provide or identify all support the Consumer Advocate has showing that any of WOM's undepreciated assets (amounts remaining in net plant) of approximately \$1.6 million shown on the audited financial statements at December 31, 2008 has been written off for tax purposes.

WOM-IR-CA-6

Ref: CA-T-1, p. 17, l. 6-8

- a. Will the CA also agree that if more recent data suggests that the test year sales should be lower, that the Consumer Advocate would also revisit the reasonableness of using the value of 40,990,000 gallons for test year water sales?
- b. If not, please explain why.

WOM-IR-CA-7

Ref: CA-T-1, p. 20, l. 8-11

- a. Please identify all other utility companies the Consumer Advocate is aware of that require or have a 50/50 sharing in the costs of employee benefits.

WOM-IR-CA-8

Ref: CA-T-1, p. 25, l. 10 to p. 26, l. 8

- a. Please provide the Consumer Advocate's understanding of the main reason for the increase in the cost of sales in the year ended June 30, 2009 over the year ended June 30, 2008 in the amount of \$348,278 shown on Attachment CA-IR-47, Exhibit WOM 10.3, line 91, columns 6 and 5. (\$500,278 - \$152,546).
- b. Please confirm that it is the Consumer Advocate's understanding that the amounts shown on line 75 of Attachment CA-IR-47, Exhibit WOM 10.3, for the fiscal years ended June 30, 2008, 2009 and 2010 have not been reflected in the expenses included in the Company's revenue request in this proceeding.
- c. Please confirm that, excluding the amounts on line 75 from the cost of sales expenses for the fiscal years ended June 30, 2008, 2009 and 2010 would result in annual amounts of \$123,577 for 2008 (\$152,546 - \$28,969); \$93,832 for 2009 (\$500,824 - \$406,992)

and \$40,204 for the four months ended October 31, 2009 (\$175,868 - \$135,664) which would be equal to \$120,612 if annualized for the full year ended June 30, 2010.

- d. Please confirm that the Company has shown no expense in its update for the test year in column 8 for the expense on line 75.
- e. Please identify what further investigation is required with regard to the cost of service amounts recommended by the Company to be included in the test year expenses, which were \$106,926 in the Company's original filing and are \$95,680 in Exhibit CA-114.
- f. Please provide all supporting documentation regarding the amounts included in Exhibit CA-114 in column 7.

WOM-IR-CA-9

Ref: CA-T-1, p. 27, l. 16 to p. 28, l. 12

- a. Please provide all examples of other utility companies where the utility uses external services for its accounting, financial, tax and administrative services and provide a list of the services the utilities obtain from the external supplier and the charges for those services.

- b. If the Consumer Advocate does not have and/or cannot provide such a list of companies, services and costs, please provide all supporting data used to determine that the Company's request should be reduced by approximately 44%.
- c. Please provide a calculation of the services the Consumer Advocate is recommending be included in the recommended \$9,660, what the time required for each service was included and what billing rate was used by the Consumer Advocate.
- d. Please explain how the Company should recover the costs being incurred to provide monthly financial, accounting and operational data to the Commission and whether that cost should be recovered.

WOM-IR-CA-10

Ref: CA-T-1, p. 36, l. 10-14

- a. Assuming that a utility as a stand-alone income tax filer has operating losses that do not permit the use of accelerated tax depreciation (that creates the ADIT used to reduce rate base) or have no State income tax payable that would permit the use of the HCGETC (that creates the HCGETC used to reduce rate base) and that, because of these operating losses for

income tax purposes had not calculated or recorded the ADIT or HCGETC.

1. Please fully explain why the Consumer Advocate believes the customers should receive a benefit, "...as if the Company had properly recorded and taken these tax benefits."
 2. If this is not the Consumer Advocate's position, please provide additional explanation beyond what is provided under the "Recommendation" section of the testimony on pages 35-46.
- b. Assuming that a utility company, included as part of a consolidated income tax filing which shows that the utility and other companies included in the consolidated income tax filing have operating losses that do not permit the use of accelerated tax depreciation (that creates the ADIT used to reduce rate base) or have no State income tax payable that would permit the use of the HCGETC (that creates the HCGETC used to reduce rate base) and that, because of these operating losses for income tax purposes, had not calculated or recorded the ADIT or HCGETC.

1. Please fully explain why the Consumer Advocate believes the utility customers should receive a benefit, "...as if the Company had properly recorded and taken these tax benefits."
 2. If this is not the Consumer Advocate's position, please provide additional explanation beyond what is provided under the "Recommendation" section of the testimony on pages 35-36.
- c. Please provide the Consumer Advocate's position and recommendation on the following situation.
1. A utility has incurred operating losses for all years since its inception and uses book straight line depreciation in its income tax filings for each of those years. Since the utility did not have taxable income the utility did not elect to use accelerated income tax rates or depreciable lives. The utility, in its filing for a rate increase did not show any ADIT for a rate base reduction since it did not use accelerated tax methods, rates or lives in calculating its taxable income in its income tax filings.

2. Under this hypothetical, would the Consumer Advocate
 - i. Recommend that the Company be required to provide its best estimates of the ADIT and HCGETC for use to reduce rate base in its rate proceeding?
 - ii. Recommend that the Company not be allowed an income tax expense since it could have a net operating loss ("NOL") carry-forward which would defer the need to pay income taxes in the test year?
 - iii. Recommend that the customers benefit in some other form from the fact that there are NOLs that continue from prior periods into the test year?
 - iv. Recommend that the utility be allowed recovery of the income tax expense calculated during the test year since, after the increase in revenue, the utility would have taxable income?
3. If the Consumer Advocate would provide any benefit to customers under the hypothetical

above, provide all supporting documentation
(commission orders, regulatory tenets, etc.)
that provide for customer benefits in instances
where the customer did not provide any funds
or take any action to provide the benefit.

WOM-IR-CA-11 Ref: CA-T-1, p. 38, I. 1-18

- a. Please provide any information or documentation in the possession of the Consumer Advocate that would indicate when the Company was formed to provide utility services.
- b. Please provide any information or documentation in the possession of the Consumer Advocate that shows the assets utilized in connection with the utility operations were transferred to the Company by a parent or affiliate at no cost to the Company.
- c. Please provide any information or documentation in the possession of the Consumer Advocate which indicates that the rates and charges included in the initial tariff of the Company filed with the Commission was two or three times the prior unregulated rates and charges.

WOM-IR-CA-12 Ref: CA-T-1, p. 39, I. 1-12

- a. Please identify all additional information the Consumer Advocate believes is necessary to determine if the Consumer Advocate should recommend an excess capacity adjustment in this proceeding.

WOM-IR-CA-13 Ref: CA-T-1, p. 44, I. 6-15

- a. Please provide all reasons why the Consumer Advocate believes that the Company should not be allowed to earn a rate of return ("ROR") of at least 8.1% which has been recommended by the Consumer Advocate in other small water utility rate proceedings.
- b. All other things being equal, no service problems, no rate base valuation problems, appropriate allowance for excess capacity, etc., please provide all reasons why a 2.0% rate of return used by a utility company to keep the revenue increase requested down should not be increased to the current ROR requirement as an offset to ratemaking adjustments.
 - 1. Identify all recent rate applications where the utility filed for a less than required ROR and the Consumer Advocate's adjustments were

implemented and, because of the ROR difference (requested v. required) the revenue increase request was not reduced but the ROR was increased up to the required level.

2. Identify all recent rate applications where the utility filed for a less than required ROR and the Consumer Advocate's adjustments were implemented and the lower ROR requested was retained and the revenue increase request was reduced to reflect the Consumer Advocate's adjustments.

WOM-IR-CA-14

Ref: CA-T-1, p. 46, I. 8-10

- a. Please confirm that the percent increase in revenue for WOM customers from the temporary rates that are currently being charged to the revenue increase proposed by the Consumer Advocate is approximately 87% (\$211,305 / \$242,224) as shown on Exhibit CA-124 page 1 of 2 on line 16, column 9 and line 14, column 8 respectively.
- b. Please confirm that the increase of "over 300%" cited by the Consumer Advocate on lines 9 and 10 is an increase over the original rates and not an increase

over the temporary rates that the customers are currently paying.

- c. As such, does the Consumer Advocate agree that, while there could be rate shock from an increase in rates of 87% it is significantly less than from an increase of 300%?
- d. Please provide all reasons why the Consumer Advocate chose to use the 300% factor for the increase when it does not represent the actual increase the customers will recognize in their monthly bills if the Consumer Advocate's recommended adjustments are made.

CERTIFICATE OF SERVICE

I (we) hereby certify that copies of the foregoing document were duly served on the following parties, by having said copies to be mailed, postage prepaid, properly addressed, or hand delivered, to the following:

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Executive Director
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DATED: Honolulu, Hawai'i, January 25, 2010.



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